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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/804,637

03/19/2004

Michael E. Shirk

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11/17/2005

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EXAMINER

HARVEY, JAMES R

ART UNIT

PAPER NUMBER

2833

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/804,637

Applicant(s)

SHIRK ET AL.

Examiner

James R. Harvey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 6-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 12 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

- The following claims are objected to because of the following informalities:
 - In reference to Claim(s) 1 and 12, line 6 of claim 1; the recitation a cam 74 provided on said pivot pin 72 is not shown in applicant's drawings of the elected Species of figures (3A-3C and 4). Applicant's drawings (figure 3A) shows a cam 74 provided on the lever 70 not the pivot pin 72. Applicant's specification (page 6, line 22) teaches that the pivot pin 72 is received by bearing surfaces 15a. For purposes of examination, it is assumed that the language is intended to mean *a cam 74 provided near or on said pivot pin 72*. An examination based on the merits, as best understood, is addressed below.
 - In reference to Claim(s) 4 and 5, the recitation “complementary surfaces” is not seen to be supported in applicant's specification. For purposes of examination, it is assumed that the language is intended to mean that claim 5 recitation claiming the reentrant surfaces (82a, 82b) as properly introduced in applicant's amendment to the specification dated 8-15-05 further define the complimentary surfaces of claim 4.
 - In reference to Claim(s) 5, the recitation “guide rails define reentrant surfaces” is seen to be in conflict with applicant's amendment to the specification dated 8-15-05 (line 8) that is seen to be the opposite teaching that the reentrant surfaces 82a defining guide rails 84. An examination based on the merits, as best understood, is addressed below.
 - Appropriate response to the above is required.

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Claim Rejections - 35 USC § 102

- The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**** Claim(s) 1 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Togami et al. (6439918).**

-- In reference to Claim(s) 1 and 12, Togami shows (cover sheet)

a receptacle 116 having a latch tab 118 defining an opening below the latch tab; and

a pluggable module 102 having:

a housing 106 having a face (near the lead line of numeral 113) and a side (near the lead line of numeral 127) transverse to the face,

the housing having a latching member 122 that extends from the side and is sized for receipt in the opening defined by ~~in~~ the latch tab 118, the housing 106 defining a slot 123 extending adjacent the latching member 122;

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an actuator 110 mounted in the slot 123 and slidable in a longitudinal (vertical) direction; a lever 108 pivotable about a pivot pin 126 having an axis transverse (horizontal) to the longitudinal direction; and a cam 107 provided on the pivot pin 126, the cam 107 having a curved cam surface;

wherein pivoting of the lever 108 about the axis causes the cam surface to impinge upon the actuator 110 to impart sliding motion in the vertical direction (figures 9A and 9B) thereto.

The meaning of "longitudinal direction" is not set forth in the claims and is thus deemed to be so broad that it is met by the applied reference showing a length from a lower surface to an upper surface (see the attached definition from The American heritage Dictionary).

In particular reference to the recitations "to cause the latch tab to release the latch member" is seen to be for the intended use of the claimed structure and is given little patentable weight, since it has been held a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). Further, the claim language is not seen to claim any structure that would inhibit the reference from being used for the same purpose as the intended use recitations of the claim.

** Claim(s) 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Martin (6644991).

-- In reference to Claim(s) 1, Martin shows (cover sheet)

a relative reference housing 20;

an actuator 267 slidable in a longitudinal direction;

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a lever 15 pivotable about a pivot pin 190 having an axis transverse to the longitudinal direction; and

a cam 185 provided near or on the pivot pin 190, the cam having a curved cam surface; wherein

pivoting of the lever about the pivot pin causes the cam surface to impinge upon the actuator to impart relative sliding motion thereto.

-- In reference to Claim(s) 2, Martin shows the handle is T-shaped.

-- In reference to Claim(s) 3, Martin shows the lever is mounted to the housing 20 having opposite sides, the lever being mounted centrally to the sides.

** Claim(s) 1,4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Ichimura et al. (4887974).

-- In reference to Claim(s) 1, Ichimura shows (figures 7B-7D)

an actuator 10 slidable in a longitudinal direction (note how the vertical line near numeral 10 (figure 7D) and vertical line near numeral 20 of figure 7D are offset from each other as compared to being aligned with each other in figure 7B);

a lever 92 pivotable about a pivot pin 91 having an axis transverse to the longitudinal direction; and

a cam (outer circumferential surface) provided on the pivot pin, the cam having a curved cam surface; wherein

pivoting of the lever about the pivot pin causes the cam surface to impinge upon the actuator to impart sliding motion thereto.

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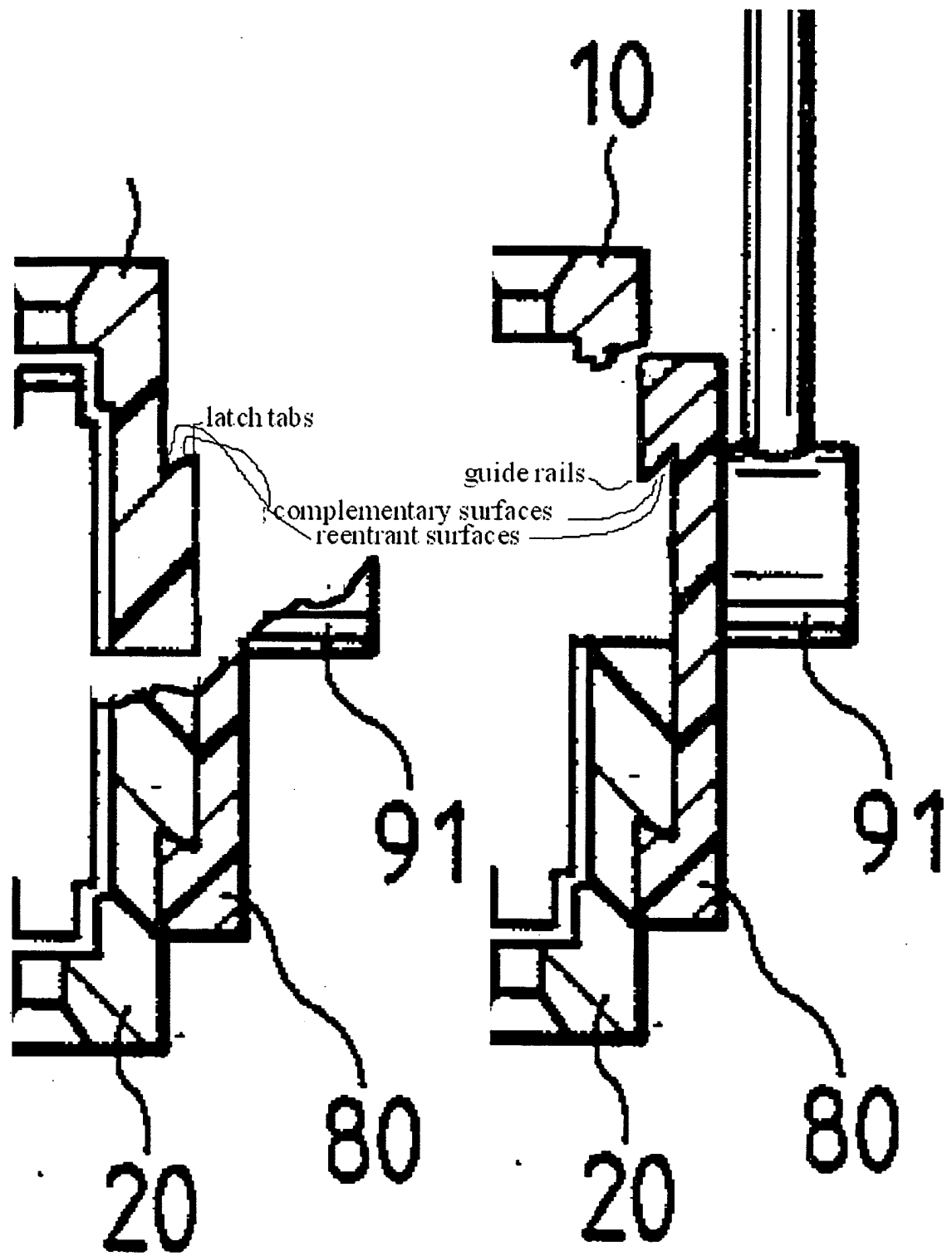
-- In reference to Claim(s) 4, Ichimura shows (see examiner's figure)

the lever and the actuator are mounted to a housing 20, the housing having a mounting boss 80 defining guide rails (see examiner's figure), the actuator having latch tabs (see examiner's figure) defining complementary surfaces for latching to the guide rails, the guide rails and the latch tabs cooperating to allow relative translational motion between the guide rails and the latch tabs.

-- In reference to Claim(s) 5, Ichimura shows (see examiner's figure)

the guide rails define reentrant surfaces (see examiner's figure) , and the latch tabs define complementary reentrant surfaces (see examiner's figure) for latching to the guide rails.

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**** Claim(s) 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Bright et al. (4343524).**

-- In reference to Claim(s) 13, Bright shows (cover sheet)

an actuator 16 translatable in a linear direction;

a lever 54 pivotable about a pivot pin 60, the lever has a cam 12 having a curved cam surface 58; wherein

pivoting of the lever about the pivot pin causes the cam surface to impinge upon the actuator to impart linear motion thereto.

Response to Applicant's Remarks

-- In response to applicant's assertion (page 9, line 8 and page 10, lines 9-12) that Togami does not show an actuator slidable in a longitudinal direction, the examiner disagrees. While applicant's figures imply that the sliding motion has to be linear (it is also noted that applicant's new claim 13 specifically claims linear on line 3), claims 1 and 12, from which the recitation originates, do not. Togami shows (figures 3A and 3B) that the portion 111 of the Togami's actuator moves from an upper longitudinal position to a lower longitudinal position as it slides in and out of the aperture 213 and makes the recitation "an actuator 110 slidable in a longitudinal direction" unpatentable.

-- In response to applicant's assertion (page 9, line 10) that Togami does not show "pivoting of said lever 108 about said axis causes said cam surface 107 to impinge upon said actuator 110 to

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import sliding motion thereto”, the examiner disagrees. While applicant's application and figures imply the that the sliding motion is linear (it is also noted that applicant's new claim 13 specifically claims linear on the last line); claims 1 and 12, from which the recitation originates, do not. Togami shows (figures 1, 3A and 3B) the cam surface 107 impinges on the actuator 110 to impart sliding motion in the radial direction as the two cam surfaces slide across each other and makes the recitation “to impart sliding motion” unpatentable.

-- In response to applicant's assertion (page 10, line 6) that the claim language requires “slides in a longitudinal direction as a result pivoting of a lever” the examiner disagrees. The recitation is not positively recited in the claims and even though applicant's specification and figures show the recitation, a proper examination does not allow for applicant's disclosure to be imported into the claims. If applicant desires and examination on linear sliding motion, applicant should consider amending claims 1 and 12 in the same manner as new claim 13.

-- Applicant's assertion are seen as an attempt to persuade the examiner that the two recitations “slideable in a longitudinal direction” and “to impart sliding motion thereto” are associated with each other to require that cam surface impart sliding motion in the longitudinal direction. The claim language is not seen to require such a narrow requirement because the two recitations are seen to lack proper antecedent basis to require an association with each other. Togami shows (figures 3A and 3B) that the portion 111 of the Togami's actuator moves from an upper longitudinal position to a lower longitudinal position as it slides in and out of the aperture 213 and makes the recitation “an actuator 110 slidable in a longitudinal direction” unpatentable.

Togami also shows (figures 1, 3A and 3B) the cam surface 107 impinges on the actuator 110 to

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impart sliding motion in the radial direction as the two cam surfaces slide across each other and makes the recitation "to impart sliding motion" unpatentable.

If applicant's desires an examination of the combination of the two recitations, applicant should consider amending the recitation in a manner that provides a proper antecedent basis for the two recitations.

-- In response to applicant's assertion (page 10, penultimate line) concerning claims 4 and 5, this remark is moot in view of the new grounds of rejection that was necessitated by applicant's amendment of claim 4.

-- In response to applicant's assertion (page 11, line 14) the sliding of the cam surfaces does not cause the latch tab 118 of Togami to release the latch member 122, the examiner disagrees. As discussed in the rejection, the recitation is seen to be for the intended use of the claimed structure. Togami teaches (column 7, lines 19 and 25) that the latch tab 118 is for latching the two pieces in the assembled position in the same manner that applicant's structure is for holding the two pieces together and when the lever is rotated in the opposite position the latch tab releases the two pieces of which the latch member 122 is a component of the released piece. Togami's figures and recitation in combination show that the sliding motion between the two cam surfaces causes the latch tab 118 to release the latch member 122 and makes the recitation unpatentable.

-- In response to applicant's assertion (page 11, penultimate line) concerning claims 2 and 3, this remark is moot in view of the new grounds of rejection that was necessitated by applicant's amendment of claim 3.

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-- In response to applicant's assertion (page 10, line 4) concerning new claim 13, this remark is moot in view of the new grounds of rejection for this new claim.

Conclusion

- This application contains claims 6-11 drawn to an invention nonelected with traverse in Papers dated 4-4-05. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.
- Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

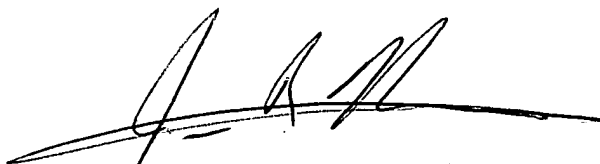
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

- Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Harvey whose telephone number is 571-272-2007. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula A. Bradley can be reached on 571-272-2800 extension 33.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2800.

- Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'J. R. Harvey', with a long horizontal stroke extending to the right.

James R. Harvey, Examiner

jrh

November 7, 2005